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SENATE BILL 691 By
Henry

HOUSE BILL 1134
By Briley

AN ACT to amend Tennessee Code Annotated, Title 63; Title 68
and Title 71, relative to consumer protection, quality
assurance and resident advocacy involving long-term care.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 68-11-908(a), is amended by deleting the word "The" at the beginning of the subsection and substituting instead the phrase, "Except as prohibited by section 71-2-109, the".

SECTION 2. Tennessee Code Annotated, Section 71-2-109, is amended by adding the following language, to be designated as new subsections (d), (e) and (f):

(d) The state long-term care ombudsman and certified representatives of the ombudsman's office shall have the jurisdiction, powers and duties conferred by the Older Americans Act, with regard to all long-term care facilities in the state, including assisted-living facilities and nursing homes.

(e) Representatives of the office of the state long-term care ombudsman, who are certified as provided in this section, shall have access to long-term care facilities and their residents at all times. A facility's refusal of access to a representative acting in the discharge of such representative's duties under, and

in accordance with, the Older Americans Act shall be deemed a Type B violation, punishable by the imposition of civil penalties authorized by section 68-11-811, and by such additional sanctions as the commissioner of health deems necessary for the protection of the facility's residents.

(f) Subject to their duty to use or release information only in accordance with the Older Americans Act, certified representatives shall have:

(1) Access to review the medical and social records of a resident,

if:

(A) The representative has the permission of the resident, or the legal representative of the resident; or

(B) The resident is unable to consent to the review and has no legal representative; or

(2) Access to the records as is necessary to investigate a complaint if:

(A) A legal guardian of the resident refuses to give the permission;

(B) A certified representative has reasonable cause to believe that the guardian is not acting in the best interests of the resident; and

(C) The representative obtains the approval of the state long-term care ombudsman employed by the commission on aging and disability;

(3) Access to the administrative records, policies and documents, to which the residents have, or the general public has access, of long-term care facilities; and

(4) Access to and, on request, copies of all licensing and certification records maintained by the state with respect to long-term care facilities.

SECTION 3. This act shall take effect upon becoming law, the public welfare requiring it.